

OIL AND GAS WELLS IN WAYNE NATIONAL FOREST, OHIO

OCTOBER 5, 1998.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 1467]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1467) to provide for the continuance of oil and gas operations pursuant to certain existing leases in the Wayne National Forest, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. OIL AND GAS WELLS IN WAYNE NATIONAL FOREST, OHIO.

(a) **AUTHORITY.**—The Secretary of the Interior may enter into noncompetitive oil and gas production and reclamation contracts in accordance with this section with operators of wells in the Wayne National Forest in the State of Ohio who meet the criteria of section 17(b)(3)(A) of the Act of February 25, 1920 (30 U.S.C. 226(b)(3)(A)) pursuant to private land mineral leases which were in effect on and after the date of the enactment of this section, subject to the same laws and regulations that applied to those private land mineral leases.

(b) **ADDITIONAL DRILLING.**—No contract under this section may authorize deeper completions or additional drilling.

(c) **BONDING.**—

(1) **WAIVER OF FEDERAL BONDING.**—Each contract under this section shall require the contractor to provide a Federal oil and gas bond to ensure complete and timely reclamation of the former lease tract in accordance with the regulations of the Bureau of Land Management and the Forest Service, unless the Secretary of the Interior accepts in lieu thereof assurances from the Ohio Department of Natural Resources, Division of Oil and Gas, that—

(A) the contractor has duly satisfied the bonding requirements of the State of Ohio; and following inspection of operator performance, the Ohio Department of Natural Resources is not opposed to such waiver of Federal bonding requirements;

(B) the United States of America is entitled to apply for and receive funding under the provision of section 1509.071 of the Ohio Revised Code so as to properly plug and restore oil and gas sites and lease tracts; and

(C) during the 2 years prior to the date on which the contract is entered into no less than 20 percent of Ohio State severance tax revenues has been allocated to the State of Ohio Orphan Well Fund.

(2) CONTINUED COMPLIANCE WITH 20 PERCENT REQUIREMENT.—In entering into any contract under this section, the Secretary of the Interior shall reserve the right to require the contractor to comply with all Federal oil and gas bonding requirements applicable to Federal oil and gas leases under the regulations of the Bureau of Land Management and the Forest Service whenever the Secretary finds that less than 20 percent of Ohio State severance tax revenues has been allocated to the State of Ohio Orphan Well Fund.

PURPOSE OF THE BILL

The purpose of H.R. 1467 is to provide for the continuance of oil and gas operations pursuant to certain existing leases in the Wayne National Forest.

BACKGROUND AND NEED FOR LEGISLATION

An unusual situation occurs on certain acquired lands within the Wayne National Forest in southern Ohio. Formerly reserved private mineral interests valuable for oil and gas resources have become Federal mineral estate with the recent expiration of 50-year reservations of such rights. Time-limited reservations were at one time a standard condition of the Secretary of Agriculture in the agreements to purchase lands under the Weeks Act of 1911.

In the Wayne National Forest, producing oil wells existed on these private leases at the time federal mineral ownership ripened. A strict reading of the Mineral Leasing Act for Acquired Lands [30 U.S.C. 351 et seq.] required competitive bidding for the new federal lease rights despite the obvious investment operators had in down-hole equipment and surface pumps, etc. Section 2507 of the Energy Policy Act of 1992 [Public Law 102–486] addressed this problem by allowing the Secretary of the Interior to lease the tracts to the existing well-owner without competition, but otherwise made no provision for special treatment of such operators.

On June 20, 1997, the Subcommittee on Energy and Mineral Resources held an oversight hearing on the issue of States' ability to properly inspect and enforce oil and gas regulations on federal leases instead of the Bureau of Land Management (BLM). (Vice President Gore had broadly proposed such an idea as part of the second iteration of his reinventing government initiative.) At that hearing, Mr. Danny Thompson testified on behalf of the Southern Ohio Oil & Gas Association, as did Mr. Don Mason for the Ohio Department of Natural Resources (DNR), describing the continuing problems of small oil operators on the Wayne National Forest. Specifically, small operators found themselves unable to afford the financial guarantees or collateral requirements of the standard BLM oil and gas bonding rules which were applicable to their new federal leases. In addition, these operators were already bonded with the State of Ohio agency (DNR) charged with plugging and abandoning orphan oil and gas wells. The wells owned by these operators are generally known as "stripper wells" capable of producing less than 15 barrels of crude oil per day, and thus providing only minimal cash flows, even in a favorable oil price environment.

Representative Ney introduced H.R. 1467 to amend the Mineral Leasing Act with respect to these small operators on the Wayne National Forest to treat them in the same manner as they were by the pertinent authorities when the mineral estate was privately owned. Such an approach was deemed unacceptable by the Department of the Interior. At the request of Energy and Mineral Resources Subcommittee Chairman Barbara Cubin, Representatives of the Southern Ohio Oil and Gas Association, the Ohio Oil & Gas Association, and the Ohio DNR negotiated with the BLM and the Interior Department's Office of the Solicitor to find a mutually acceptable solution to allow the continuation of production from wells existing at the time of mineral reversion, with the understanding that such an agreement form the basis of an amendment to H.R. 1467. The amendment adopted by the Committee reflects the concerns of the BLM that the State of Ohio orphan well program be sufficiently funded to provide adequate guarantee of proper plugging and abandonment procedures in the unlikely event of operator forfeiture. Importantly, should the affected lessees decide they wish to drill additional wells on their leaseholds (or deepen the existing wells) the BLM oil and gas regulations in force at that time will apply to the new work.

COMMITTEE ACTION

H.R. 1467 was introduced on April 28, 1997, by Congressman Robert Ney (R-OH). The bill as referred to the Committee on Resources, and within the Committee to the Subcommittee on Energy and Mineral Resources. On July 21, 1998, the Subcommittee held a hearing on H.R. 1467, as described above. On August 5, 1998, the full Committee on Resources met to consider H.R. 1467. The Subcommittee on Energy and Mineral Resources was discharged from further consideration of the bill by unanimous consent. Committee Chairman Don Young offered an amendment in the nature of a substitute described above. It was adopted by voice vote. The bill, as amended, was then ordered favorably reported to the House of Representatives by voice vote.

SECTION-BY-SECTION ANALYSIS

Section 1. Oil and gas wells in Wayne National Forest, Ohio

Section 1 of the bill provides the Secretary of the Interior the discretion to waive requirements for federal bonds by operators of oil wells in the Wayne National Forest who meet the criteria established in section 2507 of the Energy Policy Act of 1992 [30 U.S.C. 226(b)(3)], and who have duly satisfied State of Ohio bonding requirements. Furthermore, in the event of a forfeiture by such an operator the United States is entitled to apply for and receive funding from the State of Ohio orphan well program to properly plug and reclaim oil and gas lease sites. Lastly, the Secretary has the right to review the continuing adequacy of the State of Ohio's commitment of state severance taxes to the program and to require operators to comply with federal requirements if the State's program is deemed underfunded.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(1)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8, and Article IV, section 3 of the Constitution of the United States grant Congress the authority to enact H.R. 1467.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the cost which would be incurred in carrying out H.R. 1467. However, clause 7(d) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 1467 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in expenditures. According to the Congressional Budget Office, enactment of this bill could affect offsetting receipts, but any effect would not be significant.

2. With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 1467.

3. With respect to the requirement of clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1467 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 20, 1998.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1467, a bill to provide for the continuance of oil and gas operations pursuant to certain existing leases in the Wayne National Forest.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Victoria V. Heid (for federal costs), and Marjorie Miller (for the state and local impact).

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Enclosure.

H.R. 1467—A bill to provide for the continuance of oil and gas operations pursuant to certain existing leases in the Wayne National Forest

Summary: H.R. 1467 would authorize the Secretary of the Interior to waive federal bonding requirements for contractors operating oil and gas wells in the Wayne National Forest in the state of Ohio under certain circumstances.

CBO estimates that enacting H.R. 1467 would have no significant impact on the federal budget. Because enacting the bill could affect offsetting receipts (a form of direct spending), pay-as-you-go procedures would apply; however, we estimate that any such effect on direct spending would not be significant.

H.R. 1467 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not have a significant effect on the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: Under current law, contractors operating oil and gas wells in the Wayne National Forest must meet bonding requirements for both the state of Ohio and the federal government. H.R. 1467 would authorize the Secretary of the Interior to waive the federal bonding requirements for certain contractors. Such waivers would be contingent on several factors, including the willingness of the Ohio Department of Natural Resources to accept the federal waiver.

Direct spending (including offsetting receipts)

Federal performance bonds for contractors operating oil and gas wells are used to assure site restoration as well as the full payment of all obligations such as royalties. On one hand, if the Secretary waived the federal bonding requirement and the operator failed to pay royalties, the waiver could result in a loss of offsetting receipts to the Treasury. On the other hand, waiving the federal bonding requirement might increase offsetting receipts from wells that would otherwise cease operations without the waiver. However, CBO estimates that in either case enacting H.R. 1467 would affect direct spending by less than \$25,000 each year.

H.R. 1467 also would allow the federal government to apply for and receive funding from Ohio under section 1509.071 of the Ohio Revised Code to plug and restore oil and gas sites and lease tracts. CBO estimates that it is unlikely that the federal government would receive such funds from the state over the next five years, but in any case the government would spend any such funds on site restoration, resulting in no net effect on the federal budget.

Spending subject to appropriation

If the Secretary waived the federal bonding requirement for the operator of a well, the operator failed to plug and restore the well properly, and state coverage proved insufficient to cover the plugging and restoration costs, the federal government could be left responsible for covering those costs, subject to appropriation of the necessary amounts. However, CBO estimates that it is unlikely that there would be any significant costs for these purposes over the 1999–2003 period.

Estimated impact on State, local, and tribal governments: H.R. 1467 contains no intergovernmental mandates as defined in UMRA and would not have a significant effect on the budgets of state, local, or tribal governments. Should the state of Ohio agree to the waiver of federal bonding requirements for the affected wells, this could have a small impact on the state budget. Such a waiver would shift to the state the cost to plug and restore these wells should they be abandoned. If these waivers allow marginal wells to continue operations, however, the state would benefit.

Estimated impact on the private sector: This bill would impose no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal costs: Victoria V. Heid. Impact on State, local, and tribal governments: Marjorie Miller.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

H.R. 1467 contains no unfunded mandates.

CHANGES IN EXISTING LAW

If enacted, H.R. 1467 would make no changes in existing law.

